

HYDROTHERMAL ENERGY AND MINERALS, INC.

IBLA 75-9

Decided March 6, 1975

Appeal from decision of Oregon State Office, Bureau of Land Management, rejecting application OR 11703 for noncompetitive geothermal lease.

Affirmed as modified.

1. Bureau of Land Management--Geological Survey--Geothermal Leases:
Known Geothermal Resources Area

There is no authority for a State Director, Bureau of Land Management, to make a determination of a known geothermal resources area. Instead, the authority has been delegated by the Secretary of the Interior to the Director, Geological Survey. KGRA determinations must be based upon the evidentiary factors stated in section 2(e) of the Geothermal Steam Act of 1970.

2. Act of December 24, 1970--Geothermal Leases: Competitive
Leases--Geothermal Leases: Known Geothermal Resources
Area--Geothermal Leases: Noncompetitive Leases

Section 4 of Geothermal Steam Act of 1970 directs competitive bidding for geothermal leases on lands which are determined to be within a KGRA before the issuance of a lease on such lands, even though the KGRA determination is made after the pertinent application is filed.

3. Act of December 24, 1970--Geothermal Leases: Competitive Leases--Geothermal Leases: Known Geothermal Resources Area--Geothermal Leases: Noncompetitive Leases

Competitive bidding requirements of first sentence of section 4 of Geothermal Steam Act of 1970 apply to those applications filed during January 1974 filing period, and State Office rejections of appellant's January 1974 noncompetitive lease applications are proper under 43 CFR 3210.4.

APPEARANCES: Jerome S. Bischoff, Esq., Portland, Oregon, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Hydrothermal Energy and Minerals, Inc., (Hydrothermal) appeals from a decision dated June 18, 1974, whereby the Oregon State Office, Bureau of Land Management, rejected its application OR 11703 filed January 31, 1974, for a noncompetitive lease of geothermal resources because the land sought is within a known geothermal resources area (KGRA).

Appellant contends essentially that the KGRA competitive leasing provisions are not applicable to filings made during the initial 30-day filing period of January 1974, provided by the regulations, and that a determination that a KGRA exists presupposes an administrative finding based on evidentiary factors and not merely competitive filings.

[1] There is no authority for a State Director, Bureau of Land Management, to make a determination of a known geothermal resources area. Instead, that authority has been delegated by the Secretary of the Interior to the Director, Geological Survey. 220 DM 4.1(H). A KGRA determination must be based upon the evidentiary factors stated in section 2(e) of the Geothermal Steam Act of 1970. 30 U.S.C.A. § 1001(e) (Supp. 1975). Hydrothermal Energy and Minerals, Inc., 18 IBLA 393, 82 I.D. __ (1975).

[2] The subject lands have been determined to be within the Belknap-Foley Hot Springs KGRA by the Geological Survey, 39 F.R. 33582 (September 18, 1974). Section 4 of the Geothermal Steam

Act of 1970 directs competitive bidding for geothermal leases on lands which are determined to be within a KGRA before issuance of a lease on such lands, even though the KGRA determination is made after the pertinent application is filed. Hydrothermal, supra.

[3] Competitive bidding requirements of the first sentence of section 4 of the Geothermal Steam Act of 1970 apply to applications filed during the January 1974 filing period, and noncompetitive lease applications filed during that period for lands later determined to be within KGRA are properly rejected. Hydrothermal, supra.

The BLM decision was in error in declaring the lands to be within a KGRA, prior to such a determination by the Director, Geological Survey. That issue is now moot, however, because of the subsequent KGRA determination by the Geological Survey. The BLM decision is so modified.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Newton Frishberg
Chief Administrative Judge

